

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.3580 of the)	MB Docket No. 17-264
Commission’s Rules Regarding Public)	
Notice of the Filing of Applications)	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	
Revision of the Public Notice Requirements)	MB Docket No. 05-6
of Section 73.3580)	

**COMMENTS OF AMERICA’S PUBLIC TELEVISION STATIONS, PUBLIC
BROADCASTING SERVICE, NATIONAL PUBLIC RADIO
AND THE CORPORATION FOR PUBLIC BROADCASTING**

America’s Public Television Stations (“APTS”),¹ the Public Broadcasting Service (“PBS”),²
National Public Radio, Inc. (“NPR”)³ and the Corporation for Public Broadcasting (“CPB”)⁴

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

² PBS, with over 330 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 100 million people through television and nearly 30 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

³ NPR is a non-profit membership corporation that produces and distributes noncommercial educational radio programs, including *All Things Considered*® and *Morning Edition*®, through more than 1,000 radio stations nationwide. Each week, some 41 million Americans listen to public radio stations. Monthly, 120 million users experience NPR across a full range of platforms including broadcast, digital and podcasts. NPR’s member stations are themselves significant producers of local, regional and national news, information and cultural programming. NPR also operates the Public Radio Satellite System and provides representation and other services to its member stations.

⁴ CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

(collectively, “Public Broadcasting”) submit these comments in response to the Further Notice of Proposed Rulemaking in the referenced proceeding (“Further Notice”).⁵

In the Further Notice, the Commission proposes to update, clarify and streamline local public notice requirements for various applications as currently set forth in Section 73.3580 of the rules. Among other changes, the Commission would eliminate the obligation to publish notices in print newspapers, relying instead on on-air announcements and/or online notices. The Commission would also simplify the content of notices, directing viewers, listeners and members of the public to copies of applications contained in online public inspection files (“OPIFs”) hosted by the Commission or in Commission application databases. For on-air notices, the Commission proposes that stations broadcast an announcement with the specified text once per week for four consecutive weeks, between 7 am and 11 pm local time, and for online notices, that they be posted continuously for 30 days.

Public Broadcasting supports the Commission’s proposals to substitute online public notice for newspaper publication, to simplify and shorten the required texts of online and on-air notices, to require notices to include links (verbal mentions in the case of on-air public notice and hypertext links in the case of online public notices) to applications in a station’s OPIF or, where there is no OPIF, to applications in the FCC’s databases, and to modify the frequency and duration of on-air and online notices.

In response to the Commission’s request for comment on whether it should continue generally to exempt NCE stations from the obligation to post online notice of applications, Public Broadcasting emphatically urges that the existing NCE exemption from newspaper publication be

⁵ *Amendment of Section 73.3580 of the Commission’s Rules Regarding Public Notice of the Filing of Applications*, Further Notice of Proposed Rulemaking in MB Docket No. 17-1264 *et al.*, FCC 19-97 (rel. Sept. 26, 2019).

carried over to the new online publication rule. While the out-of-pocket cost of newspaper publication is obvious, online publication would require allocating staff to create, update and remove website hypertext links in connection with each application filing for which online public notice is required. Particularly for smaller stations, including those serving rural areas and native reservations, such regulatory compliance costs mean less staff time can be allocated to programming initiatives.

Requiring online publication for public broadcasters is also unnecessary. Public television and radio stations are locally owned and operated stations licensed to governmental entities or nonprofit community organizations that are required to operate in a context of openness, being subject (for example) to open meetings and open records requirements in the public broadcasting provisions of the Communications Act.⁶ Stations licensed to governmental entities are also typically subject to state open meetings and open records laws. Non-governmental licensees are required to establish and maintain community advisory boards to review programming goals, significant policy decisions and the service provided by their stations.⁷ Through all these mechanisms, interested members of the public already have ample opportunities to become aware of stations' plans. This close connection to the communities served by public TV and radio stations, and their reliance on their audiences for critical financial support, continues to provide ample reason for regulatory forbearance for public broadcasters by generally not requiring online notice of the filing of applications.⁸

⁶ Section 396(k)(4) of the Act requires governing bodies, their committees and advisory boards of all public broadcasting stations to hold open meetings preceded by reasonable notice to the public. Section 396(k)(5) requires all public broadcasting stations to maintain for public inspection certain specified financial information.

⁷ The community advisory board requirement is found in Section 296(k)(8) of the Act.

⁸ Where a station is not actually broadcasting at the time an application is filed, and thus no on-air announcements are possible, Public Broadcasting understands that the rule would require online public notice. With respect to those limited circumstances in which public broadcasting stations are required to

Public Broadcasting also urges the Commission not to require separate public notice for licensees of TV and FM translators applying for license renewal or assignment of license where the TV or FM translators are allowed to be included on the same FCC renewal or assignment application form as the primary station they rebroadcast. In those situations, there are no separate applications by the TV and FM translators triggering the local public notice requirements of Section 311(a) of the Act. And, as a practical matter, the translator station's rebroadcast of the on-air public notice announcement of the primary station fully suffices to provide notice of the application at issue to viewers and listeners.⁹

Finally, Public Broadcasting asks the Commission to revisit the proposal for the timing of the initiation of public notice announcements, so that the triggering event is the actual filing of the application at issue, not the date of FCC public notice of acceptance of the application for filing. Public Broadcasting believes that the Commission's proposal is unnecessarily complicated and burdensome and inconsistent with the Commission's goal to simplify and streamline the local public notice process. Under the proposal, an applicant would need to continuously monitor FCC public notices so that it can initiate required announcements when the application is shown as accepted for filing. Not only would such daily monitoring of FCC releases increase the burden on licensees, it would in practice create a compliance trap for even well-meaning and fastidious

provide online public notice, Public Broadcasting supports the position of the NAB, as set forth in the September 17, 2019 letter from Erin L. Dozier, referenced in footnote 56 of the Further Notice, that the full text of the public notice not be required to be placed on the homepage of the website, but be permitted to be on another page accessible through a link on the homepage (similar to the homepage link now required for broadcast stations' OPIFs). Public Broadcasting notes that the proposed rule Sections 73.3580(a)(2), (a)(5) and (b)(2) appear to be drafted in a manner that does not require full texts on website home pages.⁹ Public Broadcasting believes that allowing translators to "piggy-back" on primary station public notices in this manner is consistent with current informal advice provided by the Media Bureau. For example, as reflected in this link - <https://www.fcc.gov/media/television/broadcast-television-license-renewal> -- the Video Division only requires TV translators not being renewed with the primary station to publish the post-filing renewal notices otherwise required by Section 73.3580.

licensees who happen to miss the issuance of the pertinent FCC public notice. Given that copies of electronic applications can virtually always be found in OPIFs and the FCC's application databases on the date following the actual filing of the application, there is no reason why the initiation of the public notice cannot take place within five (5) days following the actual filing date.¹⁰ Thus, the initiation of the local public notice announcement would be an immediate follow-on to the filing of the application itself, and not connected to some other process that may take place days or weeks later, and may be overlooked or missed by many licensees.

Conclusion

Public Broadcasting applauds the Commission for its efforts to streamline and simplify the local public notice requirements. With the minor adjustments noted in these comments, the public interest will be well served by revised Section 73.3580 of the Rules.

Respectfully submitted,

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¹⁰ Also, Public Broadcasting urges that the rule specify that local public notices be initiated five "business" days (rather than calendar days) from the actual date of filing, so that the clock is not ticking during weekends and holidays.

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November 18, 2019